

## CONFORMED COPY

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File No.: 17-0429

Agenda Date: 7/25/2017  
Item No.: 5.5.

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### BOARD AGENDA MEMORANDUM

#### **SUBJECT:**

Standard On-Call Consultant Agreement with Kennedy/Jenks Consultants for Pipeline Engineering Analysis and Rehabilitation Services for a Not-to-Exceed Fee of \$5 Million.

#### **RECOMMENDATION:**

Approve the Standard On-Call Consultant Agreement with Kennedy/Jenks Consultants for pipeline engineering analysis and rehabilitation services for a not-to-exceed fee of \$5 million.

#### **SUMMARY:**

As part of the 10-year Pipeline Inspection and Rehabilitation Program, the District will be planning and implementing numerous pipeline maintenance, rehabilitation, and replacement projects in the coming years. The purpose of these projects is to maintain the integrity of the approximately 140 miles of large diameter raw and treated water transmission pipelines, extend their useful life, and address infrastructure reliability concerns. Entering into this on-call Agreement with Kennedy/Jenks Consultants will provide the District with additional resources, on an as-needed basis, to provide specialized pipeline engineering support services to keep project work on schedule.

#### ***Project Background***

The majority of the District's water transmission pipelines have been installed over the past 50 years. Overall, the transmission pipelines have aged as expected and have performed as required. However, there are several pipeline sections with anomalous degradation that are highly susceptible to catastrophic failure due to seismic or landslide activity, which will require monitoring, maintenance, rehabilitation, or replacement. Staff projects a significant demand for pipeline engineering and related technical support services during the next five to ten years.

To meet this demand, and augment the services of District staff on an as-needed basis, staff undertook a competitive consultant selection process and negotiated an agreement with the highest-ranked firm, Kennedy/Jenks Consultants. Their pipeline engineering and technical support services will be provided through task orders approved by the Deputy Operating Officer for the Water Utility Capital Division, or her designee.

Examples of some of the services to be performed include: investigation, analysis and assessment of existing large diameter pipelines; development of planning and design documents for water transmission and pipeline projects; review of project plans and specifications for Quality

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Assurance/Quality Control purposes; and the provision of construction phase engineering support.

***Consultant Selection Process***

On December 8, 2016, a Request for Proposals (RFP) for pipeline engineering analysis and rehabilitation was published on the District's Contract Administration System (CAS). The RFP was sent out to over 100 consulting firms that are registered in CAS, under the expertise code WS-10. Public notices were also published in the Silicon Valley Business Journal and Small Business Exchange.

The District received proposals from three consultant firms. A Consultant Review Board (CRB) consisting of three internal subject matter experts, and one external subject matter expert from the East Bay Municipal Utility District, evaluated the written proposals. Two of the three respondents were invited to participate in the subsequent oral interviews. Based on the combined (written and oral) rating scores, the CRB recommended that staff undertake contract negotiations with Kennedy/Jenks Consultants, the highest-ranked firm. On March 16, 2017, staff initiated Agreement negotiations with Kennedy/Jenks Consultants. The final Agreement, including scope and hourly rates, has been successfully negotiated with this firm.

**FINANCIAL IMPACT:**

The not-to-exceed fee for the Agreement is \$5.0 million, with an Agreement term of five years. No funds will be encumbered at this time. On-call services will be charged in accordance with each approved task order to budgeted funds from the appropriate capital or operations projects.

**CEQA:**

The recommended action does not constitute a "project" under the California Environmental Quality Act (CEQA) because it does not have a potential for resulting in direct or reasonably foreseeable indirect physical change in the environment.

**ATTACHMENTS:**

Attachment 1: Agreement

**UNCLASSIFIED MANAGER:**

Christopher Hakes, 408-630-3796



## STANDARD ON-CALL CONSULTANT AGREEMENT

Terms and Conditions + Scope of Services Template  
Rev. C [07/1/2016-6/30/2017]

This agreement (Agreement) is effective once fully executed by and between SANTA CLARA VALLEY WATER DISTRICT (District), and KENNEDY/JENKS CONSULTANTS (Consultant) (individually the Party or collectively the Parties).

WHEREAS the District desires certain services hereinafter described and Consultant affirms it has the requisite experience and expertise, and desires to provide such services.

NOW, THEREFORE, the District and Consultant, for the consideration and upon the terms and conditions specified, agree as follows:

### SECTION ONE

#### SCOPE OF SERVICES

The scope of services (Services) to be performed pursuant to this Agreement is generally described in the scope of services attached hereto and incorporated herein by this reference (Scope of Services) and in each executed Task Order. The District may require Consultant to provide all or a portion of these services (Services) through subsequently executed task orders (Task Orders). Task Orders will be in the form of the template described in Section Twelve, subsection 13, Task Orders and in Appendix Three of the Standard On-Call Consultant Agreement, Task Order Template. These Services will be provided on an on-call basis (On-Call).

### SECTION TWO

#### DUTIES OF CONSULTANT

##### 1. Performance.

- A. The Services must be performed by Consultant, or at its direction, in a manner sufficient to meet the purposes specified in this Agreement and the attached Scope of Services. References to "Consultant" herein include those performing any portion of the Services at its direction such as subconsultants, vendors, suppliers, subcontractors, and other business entities and individuals. Consultant will collaborate with District staff in engineering, operations, and maintenance units to be made aware of District operational constraints, procedures, or preferences relevant to Consultant's performance of the Services.
- B. Unless the requirements for the Services are specifically modified in writing, Consultant must perform Services and provide all deliverables as required.
- C. Consultant shall not undertake any Services not described in the Scope of Services unless authorized in writing by the District prior to the performance of such Services by

issuance of a Task Order or pursuant to an amendment to this Agreement signed by both Parties.

2. **Consultant Controlled Areas.** Consultant is responsible for the security and safety of the area(s) it controls wherein it is required to perform field operations pursuant to the Services.
3. **Licensing.** Services performed by Consultant will be undertaken only by persons appropriately licensed, certified, or registered in California, as applicable to the Services described herein, when required by statutes or regulations, as well as pursuant to the relevant standard of care as described in subsection 11, Standard of Care. Examples of such Services include those performed by: California State Licensed Contractors, Professional Engineers and Architects, Inspectors, and Surveyors. Consultant shall make available upon District's request, documentation of qualifications and licensing of personnel performing Services described herein.
4. **District's Approval of Deliverables.** Deliverables prepared by Consultant, notwithstanding acceptance and approval by District, which District determines must subsequently be modified due to errors or omissions, will be corrected at no additional cost to District.
5. **Errors and Omissions.** The Services may include preparation of deliverables by Consultant which will be implemented in a public works construction project. Consultant is responsible for any direct or actual damages incurred by District which District determines result from Consultant's errors or omissions in Consultant's deliverables, including, but not limited to, any increase in the District's payment(s) due to its construction contractor, which increase is directly attributable to required revisions to the construction contract documents to the extent caused by Consultant's negligent acts, errors, or omissions.
6. **District Standardization Requirements.**
  - A. Consultant shall perform the Services utilizing District nomenclature, standardized forms, software requirements, documented procedures, and best management practices. Consultant shall use Microsoft Office software and AutoCAD software that is compatible with the District Microsoft Office software and AutoCAD software used at the time(s) the District issues a notice-to-proceed pursuant to this Agreement.
  - B. Engineering drawings prepared by Consultant must be in compliance with the District's CADD and drafting standards including line types, line weights, text sizes, text orientation, dimensioning, labeling/numbering system for detailed plan views and detailed section views. Drawings prepared using different CADD software and versions must be converted to be compatible with the District's CADD software. Prior to acceptance, the District reserves the right to test the submitted CADD files to verify that the files are not corrupted or missing linkages (for blocks, etc., used in the drawing) and that the standards are retained during the conversion process used by the Consultant.
7. **Consultant Key Staff and Subconsultants.**
  - A. Consultant's key staff and Subconsultants assigned to perform the Services are identified in Attachment Three to the Scope of Services, Consultant's Key Staff and Subconsultants.

- B. The Project team organization chart and delegated responsibilities of each team member will be submitted to the District for concurrence.
- C. Consultant may utilize Subconsultants, subcontractors, suppliers, or vendors it deems appropriate to the complexity and nature of the required Services.
  - I. Consultant must obtain the District's approval of all Subconsultants. Upon the District's request, Consultant must provide copies of all Subconsultant agreements.
  - II. Consultant must require its delegates or Subconsultants to agree, in writing, to adhere to terms and conditions of this Agreement.
- D. Any delegation or use of Subconsultants by Consultant will not operate to relieve Consultant of its responsibilities as described in this Agreement.
- E. If any of Consultant's designated key staff persons or Subconsultants fail to perform to the satisfaction of the District, on written notice from the District, Consultant will have fifteen (15) calendar days to remove that person from the Project and provide a replacement acceptable to the District.
- F. Consultant will not charge the District for the time it takes Consultant's replacement personnel to obtain the District-specific Project knowledge in the possession of the person(s) being replaced.

G. Consultant's Key Staff

The District Project Manager may approve any revisions to Consultant's list of key staff assigned to the Project as an administrative modification to this Agreement, and such approval will be confirmed in writing.

H. Consultants Subconsultants.

- I. The District Project Manager may approve any revisions to Consultant's list of authorized Subconsultants when the Subconsultant is deleted from the list and the scope of services is deleted from the Agreement or such services are assumed by the Consultant; such approval will be confirmed in writing.
- II. The District Project Manager may not approve any revisions to Consultant's list of authorized Subconsultants when the Subconsultant is deleted from the list; the services are not deleted from the Agreement; and the scope of services is not assumed by the Consultant. Such revisions to the list of authorized Subconsultants are subject to approval by the District and documented in an executed amendment to this Agreement.

**8. Compliance With All Laws.** Consultant's performance must be in compliance with the most current versions of any and all laws relevant to the Services it performs pursuant to this Agreement, including, but not limited to adherence to: all applicable governmental laws, statutes, ordinances, rules, codes, regulations, orders, and other requirements; governmental requirements applicable to state and federal compliance with the Professional Land Surveyors Act; state and federal Endangered Species Act; state and federal water quality laws; and all other state and federal laws or regulations regarding environmental protection and compliance, health, safety, wages, hours, equal employment opportunity, nondiscrimination, working conditions, and transportation. In the event that the District's assistance is necessary to achieve such compliance, Consultant shall promptly notify the District.

- A. Consultant shall provide, at District's request, documentation demonstrating Consultant's compliance with all laws as described herein. After reasonable notice and according to reasonable conditions, the District has the right to inspect and copy any records of Consultant regarding such compliance.
- B. Consultant represents and warrants that neither Consultant nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal government department or agency.

**9. Occupational Safety and Health.**

- A. Consultant will perform the Services in compliance with the most current versions of all laws, standards, rules, and regulations of the Occupational Safety and Health Act, and all state and federal laws and regulations relating to safety and health standards. Consultant shall perform the Services in compliance with, will furnish only supplies, articles, and equipment that comply with such laws, standards, and regulations.
- B. Consultant shall immediately notify the District in the event of any personal injury accident or occurrence occurring during the performance of the Services. Upon the District's request, Consultant shall provide the District with documentation fully describing the accident and injury and the actions implemented to prevent similar occurrences.

**10. Consultant as Independent Contractor.** Consultant will perform all Services as an independent contractor and not an agent or employee of District. Consultant represents and warrants that it and its contractors who are performing any of the Services as Subconsultants will perform such Services as an independent contractor, and neither Consultant nor Subconsultants nor their employees are the servants, agents or employees of the District. Except as expressly provided in this Agreement, the District exercises no direction, supervision or control over Consultant, its employees, agents, or Subconsultants.

**11. Standard of Care.**

- A. Consultant must possess and maintain during the term of this Agreement, all certifications, licenses, permits, and qualifications to perform the Services and prepare all deliverables. Consultant must perform all Services and prepare all deliverables in

accordance with those standards and practices of care, skill, and diligence that are generally recognized and customarily observed by competent persons in Consultant's area of specialty in the State of California at the time such Services are rendered.

- B. Consultant shall perform the Services and prepare all deliverables without any errors or omissions, and in accordance with Section Two, Duties of Consultant, subsection 8, Compliance With All Laws.
- C. Consultant and its Subconsultants must perform the Services in compliance with all applicable written federal, state and local codes, statutes, laws, regulations, and ordinances, including, but not limited to, environmental, energy conservation, and disabled access requirements as per the provisions of Section Two, Duties of Consultant, subsection 8, Compliance With All Laws.

### **SECTION THREE**

#### **DUTIES OF DISTRICT**

1. **Available Data.** The District will make available to Consultant all data and information in its possession and control and which it deems necessary to the preparation of the deliverables specified in the Services. The District will actively aid and assist Consultant in obtaining such information from other agencies and individuals as it deems necessary. The District is not responsible to provide the data and information that it does not possess.
2. **Review of Deliverables.**
  - A. The District will designate a Project Manager (District Project Manager) for purposes of administering and managing this Agreement.
  - B. The Consultant's progress in completing the Services will be reviewed by the District's Project Manager at each milestone identified in an executed Task Order or at such other time(s) at the discretion of the District.
  - C. Consultant must notify the District in writing when it completes and has submitted to the District each deliverable as per an executed Task Order. Within thirty (30) calendar days of Consultant's notice, the District must either (i) notify Consultant that the District accepts the deliverable, or (ii) notify the Consultant that the deliverable is not acceptable and must be revised.
  - D. If the District advises Consultant of deficiencies in the deliverable, Consultant must correct, at no cost to the District, those deficiencies as soon as possible and shall again notify the District upon completion and submission of the revised deliverable.
  - E. The District will then review the revised deliverable and within thirty (30) calendar days of receipt, advise the Consultant if the revised deliverable is acceptable. All deficient deliverables will be revised at no cost to the District and this process will continue until Consultant has corrected all deficiencies identified by District.

- F. None of the proposed changes or revisions or anything else in this Agreement will be construed to relieve the Consultant of professional or legal responsibility for the performance of the Services as otherwise required by the terms and conditions of this Agreement. Corrections to any deliverable as a result of Consultant's errors or omissions as determined by the District will not result in additional costs or expenses to the District.
3. **Access to District Facilities.** The District will facilitate access to District facilities as required for the Consultant to perform the Services.

## SECTION FOUR

### FEES AND PAYMENTS

1. **Total Fixed Not-to-Exceed Amount.**

- A. The total amount payable by the District pursuant to the terms of this Agreement will not exceed the Total Authorized Funding amount stated in Attachment One to the Scope of Services, Fees and Payment. It is understood and agreed that this total is an estimate, and that the actual amount of Services requested by the District may be less. **There is no guarantee, either expressed or implied, as to the actual dollar amount that will be authorized under this Agreement.** All Service requests will be made by the District on an as-needed basis, subject to future Task Order(s) executed by the District and Consultant.
- B. Attachment One to the Scope of Services, Fees and Payments, sets forth the hourly rates and fixed fee amounts, if any, for Services Consultant may perform pursuant to an executed Task Order.
- C. Notwithstanding any other provision of this Agreement, District agrees to pay Consultant in accordance with the terms set forth in an executed Task Order. Consultant represents and warrants that the amounts charged to the District for Services do not exceed the amounts normally charged by Consultant to other customers for similar Services.
- D. Upon the written approval of the District's Deputy Operating Officer referenced herein, the scope of services described in a Task Order task may be reduced or eliminated.
- E. Services to be performed pursuant to a Task Order will commence only after written approval from a District Deputy Operating Officer.
- F. Automobile travel mileage expenses will be paid at the current IRS rate. District will not reimburse Consultant and its Subconsultants for mileage and travel time to and from District Headquarters and surrounding campus located at 5700 Almaden Expressway, San Jose, California. District will reimburse Consultant and its Subconsultants for mileage incurred from District Headquarters or Consultant's and Subconsultants' firm address, whichever is closer to the destination, to Project site(s) and if directed or authorized by the District, to meeting locations such as with regulatory agencies, for

community outreach activities and meetings, for partnering meetings, and Dispute Review Board meetings.

## **2. Consultant Monthly Invoices.**

- A. Notwithstanding language to the contrary in an executed Task Order, the Consultant must invoice the District for a Task Order within thirty (30) calendar days of the District accepting the deliverables of that Task Order.
- B. Consultant's invoices will be prepared in accordance with the terms of this Agreement, Section Four, Fees and Payments, and represent Services performed and reimbursable costs incurred during the identified billing period; will be consistent with Scope of Services and executed Task Orders; and include the following:
  - I. A description of the site where Services were performed.
  - II. The name of requestor.
  - III. The dates when Services were performed.
  - IV. The name of each Consultant and Subconsultant personnel providing Services under the Task Order; and, the number of hours, Classification, and Classification Hourly Rate by Task Order Task(s).
  - V. Consultant's summary of the amount Consultant has been billed by their Subconsultants and further detailed by Service task.
  - VI. Other direct charges and reimbursable expenses by Task Order task.
  - VII. Other direct charges and expenses must reflect actual fees versus the Task Order not-to-exceed fees as stated in Attachment One to Scope of Services, Fees and Payments, and/or Task Orders.
  - VIII. The total amount due for completing the Services specified in that Task Order, which must not exceed the not-to-exceed amount specified in that Task Order.
  - IX. To the extent that the Consultant is adding an administrative, processing, overhead or mark-up fee, the District will not pay for such duplication of costs for both the Consultant and its Subconsultants.
- C. Monthly invoices will include a summary of labor expenditures, direct costs, and billed Subconsultant charges. Billing statements will be organized such that the billing categories correspond with the Task Order tasks.

D. Consultant shall send all invoices to:

Santa Clara Valley Water District  
Attention: Accounts Payable  
P.O. Box 20670  
San Jose, CA 95160-0670

E. Consultant must also ensure that each invoice contains the following information:

- I. Agreement Number.
- II. Task Order Number.
- III. Full Legal Name of Consultant/Firm.
- IV. Payment Remit-to Address.
- V. Invoice Number.
- VI. Invoice Date (the date invoice is mailed).
- VII. Beginning and end date for billing period that Services were provided.

F. Consultant shall invoice for its performance of the Services as stated in an executed Task Order on a monthly basis, consistent with the task fee breakdown stated in the Task Order(s). Unless otherwise specified in a Task order, Consultant will be paid for the Services as described in an executed Task Order.

G. District's Project Manager will review Consultant's written invoice within five (5) District business days of receipt, address any questions with Consultant's Project Manager and approve the undisputed amount of the invoice within ten (10) working days of receipt of the invoice. District will pay undisputed invoice amounts within thirty (30) calendar days from date undisputed invoice is received by District's Project Manager.

H. District may in good faith assert a bonafide dispute as to all or a portion of fees specified in any invoice. If any portion of an amount due to Consultant under this Agreement is subject to a bonafide dispute between the Parties, within thirty (30) calendar days of Consultant's delivery of the invoice on which a disputed amount appears, District will notify Consultant in writing of the specific items in dispute, and will describe the District's reason(s) for disputing each such item. Consultant and the District Project Manager must act in good faith to resolve this dispute in a timely manner. If the dispute is not resolved by the Consultant and District Project Manager within thirty (30) calendar days of Consultant receiving District's written notice of dispute, Consultant and the District will attempt to resolve the Dispute pursuant to Appendix Two to the Standard On-Call Consultant Agreement, Dispute Resolution.

I. Consultant's Services will be performed by its staff members and Subconsultants' staff members at the lowest hourly rates commensurate with the complexity of the required Services.

**3. Prevailing Wages.**

A. A portion of the Services to be performed pursuant to this Agreement may be considered "Public Works" subject to California Labor Code Section §1771, et seq. and the applicable implementing regulations.

- B. Labor Code Section §1720 includes "Inspection and Land Surveying" in its definition of "Public Works." If Consultant's Services includes such work, Consultant and its Subconsultants must comply with all Labor Codes applicable to prevailing wages.
  - C. The Consultant and its Subconsultants shall not engage in the performance of public work, as defined in California Labor Code Section 1771.1, unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5.
  - D. The General Prevailing Wage Rates issued by the California Department of Industrial Relations may be adjusted by the State throughout the term of this Agreement. Notwithstanding any other provision of this Agreement, Consultant will not be entitled to any adjustment in compensation rates in the event there are adjustments to the General Prevailing Wage Rates.
  - E. This Agreement is subject to compliance monitoring and enforcement by the State of California Department of Industrial Relations. The Consultant and Subconsultants must furnish the records specified in Labor Code §1776 directly to the Labor Commissioner monthly, in a format prescribed by the Labor Commissioner.
  - F. All records or documents required to be kept to verify statutory compliance with the prevailing wage requirement, such as certified payroll records, must be made available for audit at no cost to the District, at any time during regular business hours, upon written request by the District.
4. **Retention.** Unless otherwise specified in an executed Task Order, when the total compensation payable pursuant to this Agreement for an individual Task Order exceeds twenty thousand dollars (\$20,000), five (5) percent of each statement for that Task Order will be withheld by the District and not paid to Consultant until thirty (30) calendar days after the assigned District representative signs off the final approval for all services/deliverables as stated in the executed Task Order, consistent with Section Three, Duties of District, subsection 2., Review of Deliverables.

## SECTION FIVE

### SCHEDULE OF COMPLETION

1. **Performance of Tasks.** Consultant will commence performing the tasks described in the Services of an executed Task Order upon receipt of the Task Order Notice-to-Proceed (NTP) issued by the District.
2. **Task Order Schedule.** Consultant will perform and complete the Services in accordance with the schedule (Schedule) as described in each Task Order. Consultant will coordinate Services with the District to provide the timeline of all tasks and subtasks including the site visits, document review, meetings and deliverables.
3. **Project Delays.** The Consultant will make all reasonable efforts to comply with the Schedule as stated in a Task Order. In the event the Task Order Schedule will be delayed, Consultant will notify the District Project Manager as soon as possible, providing the reason why, the length of the delay, and a description of the actions being taken to address the

delay. In the event Consultant is delayed in performance of its Services by circumstances beyond its control, District may in its discretion grant a reasonable adjustment in the Schedule.

4. **Changes to the Schedule.** District's Project Manager and Consultant may agree to modify the Schedule specified for Consultant's performance in an executed Task Order as an administrative modification to the Task Order and will confirm such modifications in writing.

## **SECTION SIX**

### **AGREEMENT MODIFICATIONS**

The Parties may agree to modify the terms and conditions of this Agreement by executing a written amendment hereto.

## **SECTION SEVEN**

### **TERM AND TERMINATION**

#### **1. Term & Automatic Termination.**

- A. No Task Order will be written which extends beyond the expiration date of this Agreement. Consultant will not undertake to provide Services where it reasonably appears that the Services cannot be performed and completed within the Term of this Agreement. Uncompleted and or unfinished Task Orders will co-terminate with this Agreement.

#### **2. District Rights.**

- A. **Suspension:** District may, by written notice to Consultant, suspend any or all Services pursuant to this Agreement or to any individual Task Order. District may subsequently terminate this Agreement or any Task Order for convenience, or determine to proceed. If a decision to proceed is not made within ninety (90) days from the date of the notice of suspension, any decision to proceed must be conditioned upon execution of a new Notice-to-Proceed or Task Order.
- B. **Termination for Convenience:** District may, by written notice to Consultant, terminate all or part of this Agreement or any Task Order at any time for District's convenience. Upon receipt of such notice, Consultant will immediately cease all work as specified in the notice. If this Agreement or any Task Order is so terminated, Consultant will be compensated as set forth in subsection 3, Consultant's Compensation Upon Termination or Suspension.
- C. **Termination for Breach:** If Consultant violates any of the covenants, agreements or stipulations of this Agreement or a Task Order, or if Consultant fails to fulfill in a timely and proper manner its obligations pursuant to this Agreement or any Task Order, and does not cure such failure or violation within thirty (30) days (or a reasonable extension thereof, if requested, which extension will not be unreasonably withheld) after receipt of written notice from District specifying such failure or violation, District will thereupon have

the right to terminate this Agreement and any or all uncompleted Task Orders by giving written notice to Consultant of such termination. Such notice will specify the effective date thereof, and Consultant will not be entitled to compensation for Services or expenses beyond the specified termination date.

- D. If, after notice of termination for breach of this Agreement or any Task Order, it is determined that Consultant did not breach the Agreement or Task Order, the termination will be deemed to have been effected for District's convenience, and Consultant will receive payment that is allowed by this Agreement for a termination for convenience.
- E. The rights and remedies provided herein to District are in addition to any other rights and remedies provided by law, this Agreement, or a Task Order.

### **3. Consultant's Compensation Upon Termination or Suspension.**

In the event of termination of this Agreement or any Task Order, or suspension of Services by District, Consultant shall receive compensation based on satisfactory performance, accepted by the District, as follows:

- A. For Direct Labor—Consultant shall be entitled to receive compensation for all authorized direct labor performed prior to termination pursuant to the provisions of this Agreement or Task Order and all authorized labor expenses incurred to demobilize from the Project after the date of termination.
- B. For Other Direct Costs and Expenses—Consultant shall be entitled to receive compensation for all authorized other direct costs and expenses incurred prior to termination and all authorized expenses incurred to demobilize from the Project after the date of termination.
- C. In no event shall the total compensation paid for any item of Service exceed the payment specified in the Agreement or applicable Task Order for that item of Service.

### **4. Survival.**

The terms and conditions of this Agreement, that by their context and a standard of reasonableness, are intended to survive termination, suspension, completion, and expiration of this Agreement, shall survive, including but not limited to, the following Sections and subsections: Independent Contractor Status, Confidentiality, Indemnification, Insurance Requirements, and Dispute Resolution as well as any Consultant representations and warranties.

## **SECTION EIGHT**

### **INDEMNIFICATION**

Notwithstanding any other provision of this Agreement, Consultant agrees to indemnify, defend and hold harmless the District, its agents, officers, directors, and employees from and against any and all demands, claims, damages, losses and reasonable expenses, including but not limited to liabilities, obligations, claims, costs, reasonable expenses (including without limitation

interest, penalties and reasonable attorney's fees), fines, taxes, levies, imposts, assessment, demands, damages or judgments of any kind or nature, whether in law or equity (including without limitation, death or injury to any person, property damage, administrative and judicial orders and consents, or any other loss) to the extent they arise out of, pertain to, or relate to the Consultant's negligence, recklessness, or willful misconduct. The foregoing does not limit any strict liability imposed onto the Consultant by law. The rights, duties, and obligations of the Parties as set forth above in this Section Eight, Indemnification, survive termination, expiration, completion, and suspension of this Agreement.

## **SECTION NINE**

### **INSURANCE REQUIREMENTS**

Insurance requirements applicable to this Agreement are set forth in Appendix Four to the Standard On-Call Consultant Agreement, Insurance Requirements. Consultant must provide and maintain at its own expense, during the term of this Agreement, or as may be further required herein, all insurance coverages as detailed in Appendix Four to the Standard On-Call Consultant Agreement, Insurance Requirements, and comply with all provisions stated therein.

## **SECTION TEN**

### **OWNERSHIP AND REUSE OF DELIVERABLES**

- 1. District Ownership.** All deliverables and other materials prepared by Consultant, including computer programs developed by the Consultant to perform the Services, during the term of this Agreement, will be and remain the property of the District following payment in full to Consultant for each task or portion of a completed task, or in accordance with Section Seven, Term and Termination. In the event the work is not completed, the completed portions thereof will become the property of the District. Consultant will provide the District with such deliverables and material at appropriate times during this Agreement. Consultant may retain a copy for its records. Consultant does not convey, assign or transfer the intellectual property rights it has so as to limit its ability or right to develop, design or provide services on other projects of or for its other clients.
- 2. Re-Use of Instruments of Service.** If the District desires to re-use the completed plans, specifications, or other deliverables, in total or in part, on project sites associated with this Agreement, or any other site, or to complete any incomplete portion of construction documentation which the District has already paid Consultant, the District will release the Consultant from any liability incurred by the District from re-using said deliverables.
- 3. Copies of Data.** Copies of data exchanged by, through, and between the District and Consultant that may be relied upon are limited to the printed copies. Computer-generated files, disks, or tapes of text, data or graphics that are furnished, are only for the mutual convenience of the Parties.
- 4. Computer Generated Material.** Any risk of translation or reliance on information obtained or derived from the computer-generated material will be at the user's sole risk, and no representations are made, either express or implied, as to the long-term performance of data thus transferred.

5. **Work for Hire.** Any and all original correspondence, memoranda, reports, designs, plans, specifications, data compilations, computer programs, or drawings delivered to the District by Consultant according to the terms of this Agreement, in or by any medium is deemed to be "work for hire" according to the copyright laws of the United States and the copyright will belong to the District.
6. **Copyright Claims.** Co-venturers, subcontractors, Subconsultants, suppliers, and vendors to Consultant likewise are bound by these copyright terms. The District makes no copyright claim and requires no release for copyrighted material or trademarked names used incidentally by Consultant.

## **SECTION ELEVEN**

### **EQUAL OPPORTUNITY**

1. **Equal Opportunity Employer.** The Santa Clara Valley Water District is an equal opportunity employer and requires its consultants to have and adhere to a policy of equal opportunity and non-discrimination. In the performance of the Agreement, the Consultant will comply with all applicable federal, state, local laws and regulations, and will not discriminate against any subcontractor, employee, or applicant for employment, in the recruitment, hiring, employment, utilization, promotion, classification or reclassification, transfer, recruitment advertising, evaluation, treatment, demotion, layoff, termination, rates of pay or other forms of compensation, and selection for professional development training (including apprenticeship), or against any other person, on the basis of sex (which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth or breastfeeding), race, religion, color, national origin (including language use restrictions), ancestry, religious creed (including religious dress and grooming practices, political affiliation, disability (mental and physical, including HIV or AIDS), medical condition (cancer and genetic characteristics), genetic information, marital status, parental status, gender, age (40 and over), pregnancy, military and veteran status, sexual orientation, gender identity and gender expression, the exercise of family and medical care leave, the exercise of pregnancy disability leave, or the request, exercise, or need for reasonable accommodation.
2. **Compliance With Applicable Equal Opportunity Laws.** The Consultant's policy must conform with applicable state and federal guidelines including the Federal Equal Opportunity Clause, "Section 60-1.4 of Title 41, Part 60 of the Code of Federal Regulations," Title VII of the Civil Rights Act of 1964 as amended; the American's with Disabilities Act of 1990; the Rehabilitation Act of 1973 (Sections 503 and 504); the Age Discrimination Act of 1975 (42 U.S.C. sec. 6101 et seq.); the California Fair Employment and Housing Act (Government Code Section 12900 et. seq.); and California Labor Code Sections 1101 and 1102.3.
3. **Investigation of Claims.** Consultant must designate a specific position within its organization to be responsible for assuring nondiscrimination and non-harassment as provided in this Agreement. Consultant must investigate all complaints directed to it by District. District will refer complaints in writing and Consultant will advise District in writing when such investigations are concluded. The scope of such investigations must include all appropriate officers, employees, and agents of the Consultant, as well as all subcontractors, Subconsultants, and material suppliers of the Consultant. In cases where such investigation

results in a finding of discrimination, harassment, or hostile work environment, Consultant must take prompt, effective disciplinary action against the offender.

## **SECTION TWELVE**

### **MISCELLANEOUS PROVISIONS**

- 1. Entire Agreement.** This Agreement, which includes the terms and conditions, Appendices, the Scope of Services, the Attachments to the Scope of Services, and all Task Orders executed pursuant to this Agreement, represents the entire understanding between the Parties hereto relating to the Services described in this Agreement and its executed Task Orders incorporated herein by this reference hereto and supersedes any and all prior proposals or agreements, whether written or oral, that may exist between the Parties. This Agreement may not be modified or amended except in writing as stated herein.
- 2. Formation of Agreement.** Formation of an Agreement between the Parties requires accomplishment of the following: (1) execution of the Agreement by Consultant; (2) submission by the Consultant, and acceptance by the District, of evidence of all required insurance coverages and documents; (3) submission by the Consultant, and acceptance by the District, of evidence of all required Form 700 documents, if applicable; (4) submission by the Consultant of the QEMS Awareness certification; (5) submission by the Consultant, and acceptance by the District, of all required Non-Disclosure Agreements (NDA) documents as provided in Attachment Four to the Scope of Services, Reference Materials, if applicable; (6) submission by the Consultant, and acceptance by the District, of a Health and Safety Plan, if applicable; (7) any other requirements that are deemed necessary by the District, and (8) execution of the Agreement by the District. Notwithstanding (3) and (5), no contract between the Parties is formed until all eight actions items have been accomplished to the satisfaction of the District. The District Project Manager will not issue an Agreement Notice-to-Proceed until all required documents have been submitted and accepted by the District, if applicable.
- 3. No Assignment.**
  - A.** The expertise and experience of Consultant are material considerations for District's award and execution of this Agreement. Consultant will not assign or transfer any interest in this Agreement nor the performance of any of Consultant obligations hereunder, without prior written consent of District in the form of an amendment executed by the Parties, and any attempt to so assign this Agreement, or any rights, duties or obligations arising hereunder, will be void and of no effect. Any assignment of monies due or to become due in accordance with this Agreement, will be to the extent permitted by law, and will be subject to all proper set-offs, deductions, and withholdings in favor of the District.
  - B.** In no event, shall an assignment of any interest in this Agreement release the Consultant from its duties and responsibilities as described in this Agreement nor shall the Consultant be released from liability created by the provision of Services as described in this Agreement until such assignment takes effect. Any attempted or purported assignment without the District's written consent in the form of an amendment executed by the Parties is null and void.

4. **Reasonableness.** Discretionary actions or approvals to be performed by the Parties will be exercised in a reasonable manner.
5. **Gifts.** Consultant hereby acknowledges that District policy prohibits the acceptance by District personnel of gifts of any kind from its contractors, consultants, suppliers or vendors. Consultant shall honor this policy by not sending or bringing gifts to the District.
6. **Audits.** Consultant agrees that the District and its agent(s), have the right to review, obtain, and copy all records pertaining to performance of this Agreement. Consultant agrees to provide the District and its agent(s) with any relevant information requested and will permit the District and its agent(s), access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting or copying books, records, accounts, computerized records, and other materials that may be relevant to the matter under investigation or subject to audit such as by a government agency providing the District with grant funds to pay for Consultant's services, for the purpose of determining compliance with this Agreement. Consultant further agrees to maintain such records for a period of three (3) years after final payment as provide for in this Agreement.
7. **Force Majeure.** Neither Party will be held responsible for delays caused by acts beyond its control, such as acts of God or public enemies, utility or communication delays, or failures not caused by such Party's negligence or fault, accidents not caused by such Party's negligence or fault, labor disputes, war, or failure of the other Party to provide data that it is required to provide pursuant to this Agreement.
8. **Binding Effect.** This Agreement is binding on the heirs, executors, administrators, successors and assigns of the Parties.
9. **Choice of Law and Venue.** The Parties agree that this Agreement is to be governed, construed and enforced in accordance with the laws of the State of California. The Parties also agree that the venue of any litigation arising out of or connected with this Agreement will lie exclusively in the state trial court or Federal District Court located in Santa Clara County in the State of California, and the Parties consent to jurisdiction over their persons and over the subject matter of any such litigation in such courts, and consent to service of process issued by such courts.
10. **Confidentiality.**
  - A. Due to the nature of the services the Consultant will provide pursuant to this Agreement, there may be disclosures made to the Consultant of detailed information about the District's operations, including on a need-to-know basis information which may be protected from public disclosure by confidentiality laws, the attorney-client privilege, and/or other provisions of law which govern the nature and timing of disclosure of public information.
  - B. The Consultant understands and acknowledges that District staff members providing information to the Consultant do so with the understanding that such information will be handled appropriately.

- C. In the event the Consultant receives such restricted or confidential information, the Consultant will limit access to the information to only those of the Consultant's employees, its subcontractors and its Subconsultants authorized by the District to have the information.
- D. Consultant will notify the District immediately of any request by any third party to have access to confidential information, and will not disclose the requested information without first receiving express written authorization from the District.
- E. Notwithstanding the aforementioned Confidentiality requirements, upon the request of the District Project Manager Consultant and its Subconsultants shall execute the District's most current Non-Disclosure Agreement in effect at that time.
- F. The requirements stated herein will survive completion, expiration, suspension, and termination of this Agreement.

**11. Release of Information Prohibited.** The Consultant is not permitted to provide any information concerning the Project to the media nor anyone other than authorized District personnel. The Consultant will not release any information pertinent to the Project for publication, public disclosure, or in any other manner without first obtaining clearance and a release in writing from the District. Any media inquiry at any time to Consultant relating to any matter concerning Services provided or requested to be provided pursuant to this Agreement will be referred immediately to the District. Consultant will not communicate with the media regarding any such matter.

**12. Conflict of Interest.**

- A. Consultant represents that there exists no actual or potential conflict of interest concerning the services to be performed pursuant to this Agreement.
- B. Consultant represents that Consultant's performance required as stated in this Agreement does not require the breach of any agreement or obligation to keep in confidence the proprietary information of another party. Consultant will not bring to the District, or use in the performance of Consultant's duties as described in this Agreement, any materials or documents of another party considered confidential or proprietary unless Consultant has obtained written authorization from such party, and the informed consent of the District, for the possession and use of such materials.
- C. Consultant represents and warrants that during the term of the Agreement, Consultant, Consultant's parent company, Consultant's subsidiaries, or any affiliated entity sharing substantially similar ownership of or control with Consultant shall not act as a Consultant or expert for any party in support of any potential or active claim or legal action against the District by such party.
- D. CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION STATEMENT OF ECONOMIC INTEREST FORM 700 ("FORM 700"): Upon District's request, Consultant employees, officers, agents, subconsultants, and subcontractors shall complete, execute, and submit a Form 700 as follows:

- I. Consultant employees, officers, agents, subconsultants, and subcontractors assigned to perform services under this Agreement shall file in a manner prescribed by the District an Assuming Office Statement. The Assuming Office Statement shall be filed:
  - a. Within thirty (30) calendar days of the effective date of this Agreement; and
  - b. Within thirty (30) calendar days of Consultant hiring, adding or promoting to a designated filer position employees, officers, agents, subconsultants, and subcontractors to perform services under this Agreement.
- II. Consultant employees, officers, agents, subconsultants, and subcontractors assigned to perform services under this Agreement that filed an Assuming Office Statement shall file in a manner prescribed by the District an amendment to their Form 700 anytime there is a change to their disclosure information.
- III. Consultant employees, officers, agents, subconsultants, and subcontractors assigned to perform services under this Agreement that filed an Assuming Office Statement shall file with the District an Annual Statement in a manner prescribed by the District during the District's annual filing season as determined by the District.
- IV. Consultant employees, officers, agents, subconsultants, and subcontractors assigned to perform services under this Agreement that filed an Assuming Office Statement shall file in a manner prescribed by the District a Leaving Office Statement when one of the following occurs:
  - a. Upon termination of this Agreement.
  - b. Within thirty (30) calendar days of Consultant employees, officers, agents, subconsultants, and subcontractors vacating a designated filing position (i.e., removed from the Project, promotion, demotion, transfer to non-designated position, end of employment, or as a result of changes in designated filer positions in the District's Conflict of Interest Code).
- V. Consultant understands and agrees that its employees, officers, agents, subconsultants, and subcontractors may be disqualified from providing services to the District pursuant to the California Political Reform Act, Gov. Code Sections 81000 et. seq. and Government Code Section 1090. If Consultant's employees, officers, agents, subconsultants, and subcontractors are disqualified from providing services, on written notice from District's Project Manager, Consultant will have fifteen (15) calendar days to remove that employee's, officers, agent's, subconsultants, and subcontractor's person from the Project and provide a replacement acceptable to the District.
- VI. Further, the failure of Consultant's employees, officers, agents, subconsultants, and subcontractors to file an Assuming Office, Annual, Amended, or Leaving Office Statement within the time prescribed herein or by the District is deemed a material breach and may result in termination of the Agreement for cause.

**13. Task Orders.** As described herein all tasks and Services will be assigned to the Consultant through issuance of Task Orders. After said tasks and services to be performed pursuant to this Agreement are identified and communicated to Consultant by the District Project Manager, the Consultant will prepare a proposed Task Order (See Appendix Three to the Standard On-Call Consultant Agreement—Task Order Template). The proposed Task Order must identify the following:

- A. Description of the services, including deliverables;
- B. The total Not-to-Exceed Fees for Consultant to complete the services, including estimated number of hours per assigned staff to complete the services;
- C. Proposed staff that will be assigned to complete the services, including resumes if not previously provided to the District's Project Manager;
- D. Estimated cost of each other direct cost and reimbursable expense, including any applicable fees;
- E. Time schedule for completing the services; and
- F. Copies of applicable state and federal permits required to complete the services, unless previously provided to the District.
  - I. The Consultant agrees that the Not-to-Exceed Fees specified in a proposed Task Order will be the product of a good faith effort in exercising its professional judgment. After an agreement has been reached on the negotiable items, the finalized Task Order will be signed by both the District's authorized representative referenced in Appendix One to the Standard On-Call Consultant Agreement, Additional Legal Terms (Appendix One) and the Consultant's authorized representative.
  - II. The Consultant must not commence performance of work or services on a Task Order until it has been approved by the District's authorized representative and notice-to-proceed has been issued by the District's Project Manager. No payment will be made for any services performed prior to approval or after the period of performance of the Task Order. The period of performance for Task Orders will be in accordance with dates specified in the Task Order. No Task Order will include a schedule for performance which extends beyond the expiration date of this Agreement. The total amount payable by the District for an individual Task Order will not exceed the amount agreed to in the Task Order.

**14. Good Neighbor.** The District always strives to be a good neighbor to the community adjacent to its facilities. The Consultant will ensure that disturbance to neighbors is minimized. The Consultant, its staff, and Subconsultants will always interact with the members of the public in a polite and professional manner.

**15. District Quality Environmental Management System (QEMS) Awareness.** As an on-site provider of services that has the potential to result in significant environmental impacts, Consultant is required to review the QEMS Fact Sheet which is incorporated herein by this reference hereto, (Attachment Four to the Scope of Services, Reference Materials), with any

of the employee(s), subcontractor(s), and/or Subconsultant(s) (Staff) performing Services on behalf of the District, and make Staff aware of the District's Quality and Environmental Policy and their role and responsibility in achieving conformity with the expectations.

**16. Governmental Permits and Notifications.** Unless otherwise expressly stated herein or in an executed Task Order, Consultant represents and warrants that it has investigated the need for, and has or will procure, at its cost, and in its own name to the extent allowed by law, all governmental permits, notifications, approvals and inspections required for the performance of the Services. Consultant shall promptly notify the District if any such permit or approval lapses, or is modified or revoked. If, pursuant to applicable law, any such permits or approvals must be procured in the District's name, Consultant shall promptly so inform the District and shall assist the District in obtaining such permits or approvals.

**17. Taxes and Benefits.** Consultant has full and exclusive liability for the payment of, and Consultant will pay, any and all taxes and contributions for unemployment insurance, retirement benefits, workers' compensation insurance or benefits, life insurance, pensions, annuities and similar benefits and any other employment-related costs, obligations, and duties that may now or hereafter be imposed by law, collective bargaining agreements or otherwise with respect to persons employed by Consultant for the performance of Services pursuant to this Agreement.

**18. Nonwaiver of Rights.** The failure of either Party to this Agreement to object to or to take affirmative action with respect to any conduct of the other Party that is in violation of the terms of this Agreement will not be construed as a waiver thereof, or as waiver of any future breach or subsequent wrongful conduct.

**19. Notices.** Unless otherwise specified in this Agreement, all requests for written approval or legal notices must be sent to the representatives below. All notices will be deemed to have been given when made in writing and when delivered or mailed to the representatives of the District and the Consultant at their respective addresses as follows:

**District:**

Division Deputy Operating Officer as listed in Section 1, Representatives, of the attached Scope of Services.

**Consultant:**

Consultant Principal Officer as listed in Section 1, of the attached Scope of Services.

**20. Appendices.** The following listed Appendices are incorporated herein by this reference as though set forth in full:

Appendix One to the Standard On-Call Consultant Agreement—Additional Legal Terms  
Appendix Two to the Standard On-Call Consultant Agreement—Dispute Resolution  
Appendix Three to the Standard On-Call Consultant Agreement—Task Order Template  
Appendix Four to the Standard On-Call Consultant Agreement—Insurance Requirements

**21. Scope of Services and Attachments.** The Scope of Services, and the following Attachments are incorporated in this Agreement by this reference as though set forth in full:

Attachment One to Schedule OC Scope of Services—Fees and Payments  
Attachment Two to Schedule OC Scope of Services—Schedule of Completion  
Attachment Three to Schedule OC Scope of Services—Consultant's Key Staff and Subconsultants  
Attachment Four to Schedule OC Scope of Services—Reference Materials

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date it is fully executed by the Parties.

**SANTA CLARA VALLEY WATER DISTRICT**  
"District"

By:

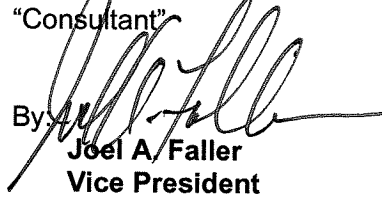
  
**John Varela**

Chair/Board of Directors

Date: July 25, 2017

**KENNEDY/JENKS CONSULTANTS**  
"Consultant"

By:

  
**Joel A. Faller**  
Vice President

Date: 6/27/17

Firm Address:

**303 Second Street, Suite 300 South  
San Francisco, CA 94107**

ATTEST:

  
**Michele L. King, CMC**  
Clerk/Board of Directors

Date: July 25, 2017

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**APPENDIX ONE TO THE  
STANDARD ON-CALL CONSULTANT AGREEMENT  
ADDITIONAL LEGAL TERMS**

- 1. Conflict of Interest—Future Services.** Consultant, Consultant's parent company, Consultant's subsidiaries, or any affiliated entity sharing substantially similar ownership of or control with Consultant shall not submit a proposal: (i) for any contract to be awarded for construction management or the construction of any project that is related to the Services provided pursuant to this Agreement; (ii) in response to any request for proposal or District solicitation developed or prepared by or with the assistance of Consultant, Consultant's parent company, Consultant's subsidiaries, or any affiliated entity sharing substantially similar ownership of or control with Consultant; or (iii) for any single or sole source products/services related to the Services pursuant to this Agreement, or have a financial stake in any single or sole source products/services resulting from this Agreement.
- 2. Small Business Enterprise (SBE) Participation.** This agreement provides for the Consultant to include California Department of General Services certified Small/Micro Businesses in the performance of the Services, estimated to be **40%** percent of the Total Not-to-Exceed Fees stated in Attachment One, Fees and Payments, to the Schedule(s), and Consultant agrees to use its best efforts to meet this goal.
- 3. Task Order Approvals.**
  - A. Task Orders are subject to approval by the District's Water Utility Division Deputy Operating Officer unless such approval is delegated to the Unit Manager as stated herein.
  - B. District Unit Manager(s) is authorized to approve individual Task Orders in an amount not-to-exceed \$100,000.
  - C. Services to be performed pursuant to a Task Order may only commence once a specific Notice to Proceed for that Task Order has been issued by the District.
  - D. The total not-to-exceed amount for any one Task Order shall not exceed [NOT USED].
- 4. California State Department of Industrial Relations Contractor and Sub-Contractor Registration Requirements.** Prior to the District executing a Task Order for Services involving public works, as defined herein, the Consultant, and its Subconsultant(s) performing public works, must provide evidence, in the form required by the District, that Consultant and its Subconsultant(s) are in compliance with the California State Department of Industrial Relations Contractor and Sub-Contractor Registration Requirements.

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**APPENDIX TWO TO THE  
STANDARD ON-CALL CONSULTANT AGREEMENT  
DISPUTE RESOLUTION**

**1. Consultant's Questions and Concerns.**

Questions regarding the terms, conditions, and services relating to this Agreement will be decided by the District who will furnish the decisions to Consultant in writing within thirty (30) Days after receiving a written request from Consultant.

**2. Dispute Resolution.**

A. Alternate Dispute Resolution (ADR)

- I. District intends to use ADR techniques including partnering and mediation to resolve disputes relating to the Project.

B. Consultant and its subconsultants are expected to participate in all ADR efforts.

C. The cost of partnering training facilities and facilitator will be borne by District.

**3. Negotiations Before and During Mediation.**

Negotiations to resolve disputes before and during mediation are initiated for settlement purposes only and are not binding unless otherwise agreed by District and Consultant.

**4. Voluntary Mediation.**

A. Initiation of Mediation

- I. Any Party to a dispute or claim may initiate mediation by notifying the other Party or Parties in writing.

B. Request for Mediation

- I. A request for mediation must contain a brief written statement of the nature of the dispute or claim, and the names, addresses, and phone numbers of all parties to the dispute or claim, and those who will represent them, if any, in the mediation.

C. Selection of Mediator

- I. Upon receipt of a written request for mediation, unless otherwise agreed by the Parties, within fourteen (14) Days, the Parties will confer to select an appropriate mediator agreeable to all Parties.
- II. If the Parties cannot agree on a mediator, they hereby agree to accept a mediator appointed by a recognized association such as the American Arbitration Association.

**APPENDIX TWO TO THE  
STANDARD ON-CALL CONSULTANT AGREEMENT  
DISPUTE RESOLUTION**

**D. Qualifications of a Mediator**

- I. Any mediator selected must have expertise in the area of the dispute and be knowledgeable in the mediation process.
- II. No person shall serve as a mediator in any dispute in which that person has any financial or personal interest in the result of the mediation.
- III. Before accepting an appointment, the prospective mediator must disclose any circumstances likely to create a presumption of bias or prevent a prompt meeting with the Parties. Upon receipt of such information, the Parties will confer and decide whether to select another mediator.

**E. Vacancies**

- I. If any mediator becomes unwilling or unable to serve, another mediator will be selected unless the Parties agree otherwise.

**F. Representation**

- I. Any Party may be represented by person(s) of their choice who must have full authority to negotiate.
- II. The names and addresses of such person(s) must be communicated in writing to both Parties and to the mediator.

**G. Time and Place of Mediation**

- I. The mediator will set the time of each mediation session.
- II. The mediation will be held at a convenient location agreeable to the mediator and the Parties, as determined by the mediator.
- III. All reasonable efforts will be made by the Parties and the mediator to schedule the first session within sixty (60) Days after selection of the mediator.

**H. Identification of Matters in Dispute**

- I. The Parties shall comply with the process as required by the mediator with regard to providing the mediator with a memorandum setting forth its position with regard to the issues that need to be resolved. At the discretion of the mediator, or otherwise agreed by the Parties, the Parties may mutually exchange such memoranda.
- II. At the first session, the Parties will be expected to produce all information reasonably required for the Mediator to understand the issue(s) presented. The mediator may require each Party to supplement such information.

**APPENDIX TWO TO THE  
STANDARD ON-CALL CONSULTANT AGREEMENT  
DISPUTE RESOLUTION**

**I. Authority of Mediator**

- I. The mediator does not have authority to impose a settlement on the Parties but will attempt to assist the Parties in reaching a satisfactory resolution of their dispute.
- II. The mediator is authorized to conduct joint and separate meetings with the Parties and to make oral and written recommendations for settlement.
- III. Whenever necessary, the mediator may also obtain expert advice concerning technical aspects of the dispute, provided the Parties agree and assume the expenses of obtaining such advice. Arrangements for obtaining such advice will be made by the mediator or the Parties, as determined by the mediator.
- IV. The mediator is authorized to end the mediation whenever, in the mediator's judgment, further efforts at mediation would not contribute to a resolution of the dispute between the Parties.

**J. Privacy**

- I. Mediation sessions are private.
- II. The Parties and their representatives may attend mediation sessions.
- III. Other persons may attend only with the permission of the Parties and with the consent of the mediator.

**K. Confidentiality**

Except as provided by California or federal law or regulation:

- I. The mediator will not divulge confidential information disclosed to a mediator by the Parties or by witnesses in the course of the mediation.
- II. All records, reports, or other documents received by a mediator while serving as mediator, are confidential.
- III. The mediator must not be compelled to divulge such records or to testify in regard to the mediation in any adversary proceeding or judicial forum.
- IV. The Parties must maintain the confidentiality of the mediation and must not rely on, or introduce as evidence in any arbitration, judicial or other proceedings:
  - a. Views expressed or suggestions made by the other Party with respect to a possible settlement of the dispute;
  - b. Statements made by the other Party in the course of the mediation proceedings;

**APPENDIX TWO TO THE  
STANDARD ON-CALL CONSULTANT AGREEMENT  
DISPUTE RESOLUTION**

- c. Proposals made or views expressed by the mediator;
- d. Whether the other Party had or had not indicated willingness to accept a proposal for settlement made by the mediator.

**L. No Stenographic Record**

- I. There shall be no stenographic record of the mediation.

**M. Termination of Mediation**

- I. The mediation shall be terminated:
  - a. By the execution of a Settlement Agreement by the Parties;
  - b. By a written declaration of the mediator to the effect that further efforts at mediation are no longer worthwhile; or
  - c. By a written declaration of a Party or Parties to the effect that the mediation proceedings are terminated.
- II. No mediator shall be a necessary Party in judicial proceedings related to the mediation.

**N. Exclusion of Liability**

- I. No mediator shall be a necessary Party in judicial proceedings related to the mediation.

**O. Interpretation and Application of These Mediation Provisions**

- I. The mediator will interpret and apply these mediation provisions insofar as they relate to the mediator's duties and responsibility.

**P. Expenses**

- I. The expenses of witnesses for each Party must be paid by the Party producing the witnesses.
- II. All other expenses of the mediation, including required travel and other expenses of the mediator, and the expenses of any witness called by the mediator, or the cost of any proofs or expert advice produced at the direct request of the mediator, will be apportioned as the mediator finds appropriate or as otherwise agreed to by the Parties.

**APPENDIX TWO TO THE  
STANDARD ON-CALL CONSULTANT AGREEMENT  
DISPUTE RESOLUTION**

**5. Compensation for Participation in Mediation.**

Neither Consultant nor the District is entitled to compensation for time spent in or for negotiations or mediation to resolve questions or disputes between Consultant and District arising out of this Agreement.

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**APPENDIX THREE TO THE  
STANDARD ON-CALL CONSULTANT AGREEMENT  
TASK ORDER TEMPLATE**

Task Order No.

Title:

Agreement: Standard On-Call Consultant Agreement ("Agreement") Between the Santa Clara Valley Water District ("District") and ("Consultant"), dated .

District:

Consultant:

**Dollar Amount of Task Order: Not-to-Exceed \$**

1. Upon full execution of this Task Order No. , as set forth in the Standard On-Call Consultant Agreement, Section Twelve, subsection 13., Task Orders, and the issuance of a notice to proceed by the District, the Consultant is hereby authorized to perform the Services described in Attachment A to this Task Order. Any costs incurred, Services performed or expenditures by the Consultant before this Task Order is executed or before the issuance of the notice to proceed will be considered outside the contracted scope of Services and will not be eligible for payment.
2. Both the scope of Services to be performed and the deliverables to be provided in accordance with this Task Order are described in Attachment A which is attached hereto and incorporated by this reference. Attachment A shall include at a minimum the following:
  - A. The Consultant personnel to be assigned to perform the Services, including resumes if not previously provided to the District.
  - B. The total not-to-exceed fees amount for Consultant to complete the Services, including estimated number of hours required to perform the Services assigned to each Consultant classification.
  - C. Estimated cost of each other direct cost and reimbursable expense, including any applicable fees.
  - D. Project schedule for completing the Scope of Services.
3. The Consultant shall be compensated at fixed fees or at the hourly rates established in the Agreement, Attachment One to the Scope of Services, Fees and Payments. The Consultant agrees that it will provide all equipment, furnish all materials, except as may be otherwise noted in the Attachment A.
4. This Task Order will become effective on the date of full execution by authorized representatives of the Parties and remain in effect until the earlier of: termination of this Agreement; completion of the tasks set forth in Attachment A; or [Insert Service Type].

**APPENDIX THREE TO THE  
STANDARD ON-CALL CONSULTANT AGREEMENT  
TASK ORDER TEMPLATE**

5. Copies of applicable local, state and federal permits required to perform the Services described in Attachment A are attached to this Task Order, unless the Consultant previously provided the appropriate permits to the District.
6. The Consultant shall perform all Services described in Attachment A to this Task Order in accordance with the terms and conditions of the Agreement.
7. Signatures:

Signature:

\_\_\_\_\_  
Insert Consultant Firm Name here.  
Insert Principal Name here  
Insert Title

\_\_\_\_\_  
DATE

Signature:

\_\_\_\_\_  
SANTA CLARA VALLEY WATER DISTRICT  
Insert Printed Name herePRINT NAME  
Insert Title here

\_\_\_\_\_  
DATE

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## APPENDIX FOUR TO THE STANDARD ON-CALL CONSULTANT AGREEMENT INSURANCE REQUIREMENTS

Please refer to the insurance requirements listed below.

Without limiting the Consultant's indemnification of, or liability to, the Santa Clara Valley Water District ("District"), the Consultant must provide and maintain at its own expense, during the term of this Agreement, or as may be further required herein, the following insurance coverages and provisions:

Consultant must provide its insurance broker(s)/agent(s) with a copy of these requirements and warrants that these requirements have been reviewed by Consultant's insurance agent(s) and/or broker(s), who have been instructed by Consultant to procure the insurance coverage required herein. All Certificates of Insurance complete with copies of all required endorsements must be sent to: **Contract Administrator, Santa Clara Valley Water District, 5750 Almaden Expressway, San Jose, CA 95118.**

In addition to certificates, Consultant must furnish District with copies of original endorsements affecting coverage required by this Appendix. The certificates and endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. **All endorsements and certificates are to be received and approved by District before work commences.** In the event of a claim or dispute, District has the right to require Consultant's insurer to provide complete, certified copies of all required pertinent insurance policies, including endorsements affecting the coverage required by this Appendix.

Consultant must, at its sole cost and expense, procure and maintain during the entire period of this Agreement the following insurance coverage(s).

### **Required Coverages**

**1. Commercial General/Business Liability Insurance** with coverage as indicated:

**\$2,000,000** per occurrence / **\$2,000,000** aggregate limits for bodily injury and property damage

General Liability insurance must include:

- a. Coverage at least as broad as found in standard ISO form CG 00 01.
- b. Contractual Liability expressly including liability assumed under this contract.
- c. If Consultant must be working within fifty (50) feet of a railroad or light rail operation, any exclusion as to performance of operations within the vicinity of any railroad bridge, trestle, track, roadbed, tunnel, overpass, underpass, or crossway must be deleted, or a railroad protective policy in the above amounts provided.
- d. Severability of Interest
- e. Broad Form Property Damage liability
- f. If the standard ISO Form wording for "OTHER INSURANCE," or other comparable wording, is not contained in Consultant's liability insurance policy, an endorsement must be provided that said insurance will be primary insurance and any insurance or

**APPENDIX FOUR TO THE  
STANDARD ON-CALL CONSULTANT AGREEMENT  
INSURANCE REQUIREMENTS**

self-insurance maintained by District, its Directors, officers, employees, agents or volunteers must be in excess of Consultant's insurance and must not contribute to it.

**2. Business Auto Liability Insurance** with coverage as indicated:

**\$2,000,000** combined single limit for bodily injury and property damage per occurrence, covering all owned, non-owned and hired vehicles.

**3. Professional/Errors and Omissions Liability** with coverage as indicated:

**\$5,000,000** per claim/ **\$5,000,000** aggregate

Professional/Errors and Omission Liability appropriate to the Consultant's profession, and must include:

A. If coverage contains a deductible, or self-insured retention, it shall not be greater than one hundred thousand dollars (\$100,000) per occurrence/event.

B. Coverage shall include contractual liability

C. If coverage is claims-made:

- a. Certificate of Insurance shall clearly state that the coverage is claims-made
- b. Policy retroactive date must coincide with or precede the Consultant's start of work (including subsequent policies purchased as renewals or replacements).
- c. Policy must allow for reporting of circumstances or incidents that might give rise to future claims.
- d. Insurance must be maintained and evidence of insurance must be provided for at least three (3) years after completion of the contract of work.

**4. Workers' Compensation and Employer's Liability Insurance**

Statutory California Workers' Compensation coverage covering all work to be performed for the District.

Employer Liability coverage for not less than \$1,000,000 per occurrence.

**General Requirements**

**With respect to all coverages noted above, the following additional requirements apply:**

- 1. Additional Insured Endorsement(s)** Consultant must provide an additional insured endorsement for Commercial General/Business Liability and Business Automobile liability coverage naming the **Santa Clara Valley Water District, its Directors, officers, employees, and agents, individually and collectively**, as additional insureds, and must

**APPENDIX FOUR TO THE  
STANDARD ON-CALL CONSULTANT AGREEMENT  
INSURANCE REQUIREMENTS**

provide coverage for acts, omissions, etc. arising out of the named insureds' activities and work. Other public entities may also be added to the additional insured endorsement as applicable and the Consultant will be notified of such requirement(s) by the District.

(**NOTE:** Additional insured language on the Certificate of Insurance is **NOT** acceptable without a separate endorsement such as Form CG 20 10, CG 2033, CG 2037. Note: Editions dated 07/04 are not acceptable)

2. **Primacy Clause:** Consultant's insurance must be primary with respect to any other insurance which may be carried by the District, its officer, agents and employees, and the District's coverage must not be called upon to contribute or share in the loss.
3. **Cancellation Clause Revision:** The Certificate of Insurance **MUST** provide **30 days notice of cancellation, (10 days notice for non-payment of premium)**. **NOTE: The standard wording in the ISO Certificate of Insurance is not acceptable.** The following words must be crossed out or deleted from the standard cancellation clause: "...endeavor to..." AND "...but failure to mail such notice must impose no obligation or liability of any kind upon the company, its agents or representatives."
4. **Acceptability of Insurers:** All coverages must be issued by companies admitted to conduct business in the State of California, which hold a current policy holder's alphabetic and financial size category rating of not less than A- V, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the District's Risk Management Administrator.
5. **Self-Insured Retentions or Deductibles:** Any deductibles or self-insured retentions must be declared to and approved by the District. At the option of the District, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the District, its officers, officials, employees and volunteers; or the Consultant shall provide a financial guarantee satisfactory to the Entity guaranteeing payment of losses and related investigations, claim administration, and defense expenses.
6. **Subconsultants:** Should any of the work under this Agreement be sublet, the Consultant must require each of its subconsultants of any tier to carry the aforementioned coverages, or Consultants may insure subconsultants under its own policies.
7. **Amount of Liability not Limited to Amount of Insurance:** The insurance procured by Consultant for the benefit of the District must not be deemed to release or limit any liability of Consultant. Damages recoverable by the District for any liability of Consultant must, in any event, not be limited by the amount of the required insurance coverage.

**APPENDIX FOUR TO THE  
STANDARD ON-CALL CONSULTANT AGREEMENT  
INSURANCE REQUIREMENTS**

8. **Coverage to be Occurrence Based:** With the exception of the Professional Liability/Errors and Omissions coverage mentioned above, all coverage must be occurrence-based coverage. Claims-made coverage is not allowed.
9. **Waiver of Subrogation:** Consultant agrees on to waive subrogation against the District to the extent any loss suffered by Consultant is covered by any Commercial General Liability policy, Automobile policy, Workers' Compensation policy, or Professional policy described in **Required Coverages** above. Consultant agrees to advise its broker/agent/insurer about this provision and obtain any endorsements, if needed, necessary to ensure the insurer agrees.
10. **Non-compliance:** The District reserves the right to withhold payments to the Consultant in the event of material noncompliance with the insurance requirements outlined above.
11. **Renewal certificates and endorsements must be submitted to:**

[certificates-santaclara@riskworks.com](mailto:certificates-santaclara@riskworks.com)

Please also note that the Certificate Holder on the certificates of insurance should read:  
Santa Clara Valley Water District  
c/o EXIGIS Risk Management Services  
P.O. Box 4668 - ECM #35050  
New York, NY 10163-4668  
Joel Jenkins, District Project Manager  
On-Call Pipeline Engineering Analysis and Rehabilitation Services, CAS #4775

**IMPORTANT:**     **On the certificate of insurance, please note either the name of the project or the name of the District contact person or unit for the contract.**

**If your insurance broker has any questions** please advise him/her to call Mr. David Cahen, District Risk Management Administrator at (408) 265-2607, extension 2213.

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**SCHEDULE OC  
ON-CALL PRELIMINARY SCOPE OF SERVICES**

**1. Representatives**

- A. The District's representatives are as listed below. Unless otherwise provided in this Agreement, all correspondence to the District shall be addressed to the District's Project Manager.

Joel Jenkins (District Project Manager)  
Senior Civil Engineer  
Water Utility Capital Division  
Santa Clara Valley Water District  
5750 Almaden Expressway,  
San Jose, CA 95118-3638

Phone: 408-630-2609  
E-mail: [jjenkins@valleywater.org](mailto:jjenkins@valleywater.org)

Emmanuel Aryee (District Unit Manager)  
Engineering Unit Manager  
Water Utility Capital Division  
Santa Clara Valley Water District  
5750 Almaden Expressway,  
San Jose, CA 95118-3638

Phone: 408-630-3074  
E-mail: [earryee@valleywater.org](mailto:earryee@valleywater.org)

Katherine Oven (Division Deputy Operating Officer)  
Deputy Operating Officer  
Santa Clara Valley Water District  
5750 Almaden Expressway,  
San Jose, CA 95118-3638

Phone: 408-630-3126  
E-mail: [koven@valleywater.org](mailto:koven@valleywater.org)

- B. The Consultant's Project Manager is as listed below. All District questions and correspondence pertaining to this Agreement shall be referred to the Consultant's Project Manager.

Deborah Russell (Consultant Project Manager or CPM)  
Project Manager  
303 Second Street, Suite 300 South  
San Francisco, CA 94107  
Phone: 415-243-2528  
E-mail: [deborahrussell@kennedyjenks.com](mailto:deborahrussell@kennedyjenks.com)

**SCHEDULE OC**  
**ON-CALL PRELIMINARY SCOPE OF SERVICES**

- C. The Consultant's Principal Officer for this Agreement is as listed below. As per the Agreement, Section Twelve, subsection 19., Notices, all notices pertaining to this Agreement must be submitted to the Consultant's Principal Officer.

Joel Faller (Consultant Principal Officer)  
Vice President

303 Second Street, Suite 300 South  
San Francisco, CA 94107  
Phone: 415-243-2443  
E-mail: joelfaller@kennedyjenks.com

**2. Pipeline Engineering Analysis and Rehabilitation Services Objective**

The objective of this Agreement for On-Call Services is for the Consultant to perform general and specialized civil and structural engineering services relating to water utility capital improvements and operational projects, and other structural engineering support services. Consultant may develop conceptual alternatives, and prepare preliminary and final planning and design documents for various types of large diameter water transmission pipeline assessment, rehabilitation, replacement and seismic upgrade capital projects.

**3. Background**

The Santa Clara Valley Water District (District) is a public agency providing water supply, flood protection and stream stewardship throughout Santa Clara County. It serves approximately two million people in all 15 cities and the unincorporated areas in the county. The District also manages the groundwater basins, which is the source of nearly half of the county's water supply. Groundwater basins are replenished with local surface water and imported water conveyed through the Sacramento-San Joaquin Delta. Imported water and local surface water also supply the District's three water treatment plants. The District collaborates and coordinates with local agencies and recycled water producers on recycled water development and use.

The District operates and maintains approximately 142 miles of large diameter raw and treated water transmission pipelines to meet its water supply and groundwater stewardship mission. The District's water transmission pipelines are composed of a combination of Pre-stressed Concrete Cylinder Pipe, Bar-Wrapped Concrete Cylinder Pipe, Welded Steel Cylinder pipe and associated pipeline appurtenances and structures. The District's water transmission pipelines were installed over the past half a century. Overall the pipelines have aged as expected, however there are a number of sections with anomalous degradation and areas that are highly susceptible to being negatively impacted by seismic events.

The District plans and implements pipeline maintenance, rehabilitation and replacement projects in an effort to maintain the integrity of its assets, to extend their useful life and to address infrastructure reliability concerns. The District's pipeline engineering staff routinely provides technical support for these projects. The On-Call services that may be performed pursuant to this Agreement will augment the services of District staff and provide additional pipeline engineering services as needed.

**SCHEDULE OC  
ON-CALL PRELIMINARY SCOPE OF SERVICES**

**4. Pipeline Engineering Analysis and Rehabilitation Services Scope of Services**

- A. This Scope of Services provides for the Consultant (Consultant) to perform general and specialized pipeline engineering analysis and rehabilitation engineering services on an "as-requested" or "as-needed basis", to assist the District in accomplishing its maintenance, rehabilitation and replacement projects in a timely manner. The District may request services to be performed by the Consultant at any time during the term of this Agreement and by staff at different levels of experience and expertise. The requested tasks may involve pipeline rehabilitation engineering design services to address seismic and structural concerns for pipelines.
- B. The scope of On-Call services will generally include, but is not limited to the following areas of water transmission pipeline rehabilitation engineering:
- I. Perform seismic and structural investigations, analysis, and assessments of existing large diameter raw and treated water transmission infrastructure including but not limited to pipelines, appurtenances, and associated structures, to determine rehabilitation, seismic retrofit or replacement scenario requirements.
  - II. Develop, evaluate and provide recommendations for conceptual alternatives and strategies for localized and comprehensive water transmission infrastructure rehabilitation, seismic retrofit or replacement scenarios and projects.
  - III. Develop conceptual, preliminary and final planning and design documents for water transmission infrastructure rehabilitation, seismic retrofit, replacement or pipeline engineering projects, including but not limited to planning study reports, plans, specifications, calculations, and cost estimates.
  - IV. Provide construction phase engineering design services, inspection and quality assurance support for the execution of the water transmission infrastructure rehabilitation, seismic retrofit, replacement or pipeline engineering projects to ensure compliance with project plans and specifications.

**5. Additional Services**

While the services required for the fulfillment of this Scope of Service shall primarily be Civil and Structural in discipline, services involving other engineering and designing/drafting disciplines, including but not limited to Mechanical, Electrical, Instrumentation and Control, Geotechnical, Traffic, Tunneling, Architectural, Landscaping, etc. may be required in order to fully execute the requirements of a task order.

**6. Task Orders**

The District, at its sole discretion, may require the Consultant to render the above services on an "as requested" or "as-needed" basis. Consultant shall not encumber costs for any of the tasks unless the District's Deputy Operating Officer or his/her designee grants written authorization. Details of the specific scope of services, deliverables, not-to-exceed fees, and schedule must be approved by the District before commencement of any work, and the written authorization should be in the form of a Task Order, attached to the Standard On-

**SCHEDULE OC  
ON-CALL PRELIMINARY SCOPE OF SERVICES**

Call Consultant Agreement as Attachment Three – Task Order Template. The task order must include (1) a description of the services, including deliverables; (2) the NTE amount to complete the work; (3) a time schedule for completing the work, and (4) names/classifications of consultant's staff performing the services. Each Task Order will become part of the Agreement.

**7. ATTACHMENTS**

The following listed Attachments are incorporated herein by this reference as though set forth in full:

Attachment One to Schedule OC Scope of Services—Fees and Payments  
Attachment Two to Schedule OC Scope of Services—Schedule of Completion  
Attachment Three to Schedule OC Scope of Services—Consultant's Key Staff and Subconsultants  
Attachment Four to Schedule OC Scope of Services—Reference Materials

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**ATTACHMENT ONE  
TO SCHEDULE OC SCOPE OF SERVICES  
FEES AND PAYMENTS**

**1. Total Authorized Funding.**

Total payment for Services performed, as described in the Scope of Services and in all executed Task Orders will not exceed a total amount of **\$5 Million (Not-to-Exceed Fees or NTE)**. Under no conditions will the total compensation to the Consultant exceed this fixed fee payment amount without prior written approval in the form of an amendment to this Agreement executed by the District's Board of Directors (Board), or Chief Executive Officer, or designee, as authorized by the Board. It is understood and agreed that this total is an estimate, and the total amount of Services to be requested by the District may be less.

**There is no guarantee, either expressed or implied, as to the actual dollar amount that will be authorized pursuant to this Agreement.**

**2. Terms and Conditions.**

Payments for Services performed, as defined in each Task Order, which applies to the specific Services, will be based on the following terms:

- A. The District will pay for Services provided by the Consultant according to the rates for professional, technical, and administrative personnel as well as materials and supplies as listed below in the Hourly Rate Schedule.
- B. The stated hourly and unit rates are effective for the term of this Agreement unless otherwise revised as indicated. After twelve (12) months from the Effective Date of this Agreement, and each 12 months thereafter, these hourly and unit rates may be negotiated by the Consultant and the District, provided Consultant submits written notice to District of Consultant's request to revise the hourly and unit rates ninety (90) calendar days prior to the Effective Date of this Agreement. Both Parties will use as a benchmark for negotiations the percent change for the previous twelve (12) months of the "Employment Cost Index (ECI), for total compensation for private industry workers, for the San Francisco-Oakland-San Jose, CA CSA Census region and metropolitan area (not seasonally adjusted)" as published by the U.S. Department of Labor, Bureau of Labor Statistics, or 2.5% whichever is less. A negative index will result in rates remaining the same. Such rate revisions are subject to written approval by the District's Water Utility Capital Division Deputy Operating Officer.

**HOURLY/UNIT RATE SCHEDULE**

<b>CLASSIFICATION</b>	<b>HOURLY RATE</b>
<b>Kennedy/Jenks Consultants</b>	
Administrative Assistant	\$82.89
Project Administrator	\$115.71
CAD-Technician	\$96.69
Senior CAD-Technician	\$133.30
CAD-Designer	\$146.07
Senior CAD-Designer	\$157.20

**ATTACHMENT ONE  
TO SCHEDULE OC SCOPE OF SERVICES  
FEES AND PAYMENTS**

<b>CLASSIFICATION</b>	<b>HOURLY RATE</b>
Engineer-Scientist-Specialist 1	\$76.35
Engineer-Scientist-Specialist 2	\$114.83
Engineer-Scientist-Specialist 3	\$145.64
Engineer-Scientist-Specialist 4	\$163.85
Engineer-Scientist-Specialist 5	\$174.00
Engineer-Scientist-Specialist 6	\$210.12
Engineer-Scientist-Specialist 7	\$221.78
Engineer-Scientist-Specialist 8	\$274.82
Engineer-Scientist-Specialist 9	\$320.22
Inspector (Prevailing Wage applies)	\$183.30
Senior Inspection (Prevailing Wage applies)	\$197.40
Construction Manager	\$253.80
<b>Bennett Technology Engineers, LLP</b>	
Principal Partner	\$255.42
Senior Project Manager	\$191.06
Partner	\$191.06
Senior Project Engineer	\$182.86
Senior Scientist	\$175.18
Project Engineer	\$147.75
Senior Construction Inspector	\$126.92
<b>CHS Consulting, Inc</b>	
Principal	\$314.43
Principal Project Manager	\$201.71
Senior Transportation Engineer II	\$204.36
Senior Transportation Engineer I	\$163.35
Transportation Engineer	\$145.59
Assistant Transportation Engineer	\$101.08
Senior Transportation Planner II	\$151.88
Senior Transportation Planner I	\$134.27
Transportation Planner	\$126.83
Assistant Transportation Planner	\$104.16
Graphic Designer	\$91.88
Technical Writer	\$84.97
Administrator	\$93.14

**ATTACHMENT ONE  
TO SCHEDULE OC SCOPE OF SERVICES  
FEES AND PAYMENTS**

CLASSIFICATION	HOURLY RATE
<b>Degenkolb Engineers</b>	
Administrative Assistant	\$137.76
Sr. CAD/BIM	\$137.76
Designer	\$137.39
Design Engineer	\$154.53
Project Engineer	\$173.90
Associate	\$204.29
Sr. Associate	\$229.83
Principal	\$263.83
<b>EXARO Technologies</b>	
Foreman	\$174.81
Technician	\$168.23
Project Coordinator	\$139.98
Estimator	\$63.05
Administrative Assistant	\$53.87
<b>Flow Science</b>	
Principal Consultant	\$323.40
Principal Engineer IV	\$236.39
Principal Engineer III	\$210.52
Principal Engineer II	\$193.58
Principal Engineer I	\$160.16
Principal Engineer	\$137.37
Managerial	\$184.18
Administrative	\$101.64
<b>Geotechnical Consultants, Inc</b>	
Principal	\$243.72
Associate	\$213.25
Senior Geologist	\$197.22
Senior Engineer	\$183.23
Project Geologist	\$135.74
Project Engineer	\$143.83
Staff Engineer	\$97.32
Project Assistant	\$58.44
Project Assistant II	\$82.11

**ATTACHMENT ONE  
TO SCHEDULE OC SCOPE OF SERVICES  
FEES AND PAYMENTS**

<b>CLASSIFICATION</b>	<b>HOURLY RATE</b>
<b>O'Dell Engineering</b>	
Principal	\$243.46
2 Man Field Crew (Prevailing Wage)	\$236.41
1 Man Field Crew (Prevailing Wage)	\$122.13
Senior Land Surveyor	\$121.72
Senior Surveyor 2	\$108.18
Senior Surveyor 1	\$98.98
Surveyor 2	\$115.09
Surveyor 1	\$89.19
Assistant Surveyor 2	\$64.45
Assistant Surveyor 1	\$34.53
Landscape Architect 2	\$106.46
Landscape Architect 1	\$88.53
Landscape Designer 2	\$68.66
Landscape Designer 1	\$52.94
Administrative	\$82.86
<b>O'Rourke - Independent Seismic Advisor</b>	
Professor Thomas O'Rourke, PhD	\$300.00
<b>Safety Compliance Management</b>	
Permit Required Confined Space Supervisor/Rescue Standby Personnel	\$218.63
<b>Saylor Consulting</b>	
Chief Infrastructure Estimator	\$272.40
Senior Mechanical Estimator	\$198.35
Managing/Senior Estimator	\$192.13
Senior Electrical Estimator	\$171.68
Senior Estimator 1	\$187.33
Senior Estimator 2	\$173.34
Senior Estimator 3	\$142.86
Estimates Coordinator	\$88.99
<b>V&amp;A Consulting Engineers</b>	
Principal-in-Charge	\$278.53
Sr. Project Manager	\$253.21

**ATTACHMENT ONE  
TO SCHEDULE OC SCOPE OF SERVICES  
FEES AND PAYMENTS**

CLASSIFICATION	HOURLY RATE
Project Manager	\$212.70
Project Engineer	\$194.13
Associate Engineer	\$133.43
Assistant Engineer	\$129.91
Technician	\$122.89

- C. **Reimbursable Expenses.** All reimbursable expenses not already covered in overhead may include, but are not limited to, mapping, rendering, printouts, leased equipment mailing and delivery services, printing services, film and processing, plotting and supplies, and Subconsultant and vender services. The foregoing direct expenses may be billed on a monthly basis at actual cost plus 5% percent linked to each Agreement Task, as approved by the District's Project Manager, provided that the Agreement total NTE amount is not exceeded. Consultant shall provide receipts for each other direct expense item(s) with monthly invoices submitted. Any equipment purchased on behalf of the District that cost \$50 or more must receive the prior written approval of the District Project Manager. All equipment that the District is invoiced for becomes the property of the District when the Consultant is reimbursed for the amount it paid for that equipment.

**3. Additional Fees and Payments Terms and Conditions.**

- A. Prior to any of Consultant's staff or Subconsultants performing services at hourly rates in excess of \$270/hour, Consultant must obtain written approval from the DPM; such approval will specifically authorize the numbers of hours per task the classifications/staff is authorized to perform.
- B. Expenses incurred by Consultant for Subconsultants providing professional services will be reimbursed at actual cost plus 5%.
- C. Travel and overnight accommodations, including per diem, required for performance of this Agreement will be paid at reasonable cost not to exceed the U.S. General Services Agency Per Diem Rates for Sunnyvale/Palo Alto/San Jose, California area, provided prior District approval has been obtained from the District's Project Manager. For air travel, District will pay the cost of a coach class or equivalent ticket. Where air travel is required, district will pay the total cost of the rental car, which may include insurance, gas, car fee, and taxes and will be paid at the actual costs incurred. Vehicle rental is limited to a compact or economy model.

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**ATTACHMENT TWO  
TO SCHEDULE OC SCOPE OF SERVICES  
SCHEDULE OF COMPLETION**

1. This Agreement commences on the Effective Date, subject to accomplishment of all of the conditions to formation of an agreement listed in the Agreement at Section Twelve, Miscellaneous Provisions, subsection 2., Formation of Agreement.
2. This Agreement expires 60 months after the Effective Date specified in the introductory paragraph of this Agreement, unless its term is modified by a written amendment hereto, signed by both Parties.
3. District's Project Manager and Consultant may agree to modify the schedule specified in an executed Task Order for Consultant's performance, as an administrative modification to the Agreement, and will confirm such modification in writing.
4. Each Task Order will state the Schedule relevant to Consultant's performance of that Task Order.

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**ATTACHMENT THREE  
TO SCHEDULE OC SCOPE OF SERVICES  
CONSULTANT'S KEY STAFF AND SUBCONSULTANTS**

1. Consultant's key staff assigned to the Project are as follows:

<b>Team Member</b>	<b>Project Role &amp; Classification</b>	<b>Contact Information</b>
Joel Faller	Contract Manager Engr/Sci/Spec 9	<a href="mailto:joelfaller@kennedyjenks.com">joelfaller@kennedyjenks.com</a> 303 Second Street, Suite 300 South San Francisco, CA 94107 415-243-2443
Deborah Russell	Project Manager and Seismic Lead Engr/Sci/Spec 6	<a href="mailto:deborahrussell@kennedyjenks.com">deborahrussell@kennedyjenks.com</a> 303 Second Street, Suite 300 South San Francisco, CA 94107 415-243-2528
Fred Neal	Quality Reviewer Engr/Sci/Spec 8	<a href="mailto:fredneal@kennedyjenks.com">fredneal@kennedyjenks.com</a> 303 Second Street, Suite 300 South San Francisco, CA 94107 415-243-2504
Ed Barnhurst	Quality Reviewer Engr/Sci/Spec 8	<a href="mailto:edbarnhurst@kennedyjenks.com">edbarnhurst@kennedyjenks.com</a> 421 SW 6th Avenue, Suite 1000 Portland, OR 97204 503-423-4022
Mark Nelson	Quality Reviewer Engr/Sci/Spec 9	<a href="mailto:marknelson@kennedyjenks.com">marknelson@kennedyjenks.com</a> 1700 Pacific Avenue, Suite 4640 Dallas, TX 75201 469-621-6224
Xiangquan Li	Phase 1: Investigation Technical Lead Engr/Sci/Spec 6	<a href="mailto:XiangquanLi@kennedyjenks.com">XiangquanLi@kennedyjenks.com</a> 2350 Mission College Blvd, Suite 525 Santa Clara, California 95054 650-852-2824
Al Shewey	Phase 2: Evaluations Technical Lead Engr/Sci/Spec 9	<a href="mailto:alshewey@kennedyjenks.com">alshewey@kennedyjenks.com</a> 300 N. Lake Avenue, Suite 1020 Pasadena, CA 91101 626-788-6092
James Bowland	Phase 3: Design Lead Engr/Sci/Spec 5	<a href="mailto:jamesbowland@kennedyjenks.com">jamesbowland@kennedyjenks.com</a> 5098 Highway 93 South Whitefish, MT 59937 406-578-4501
John Bergen	Phase 4: Construction Management Technical Lead Engr/Sci/Spec 8	<a href="mailto:JohnBergen@kennedyjenks.com">JohnBergen@kennedyjenks.com</a> 1255 Treat Blvd., Suite 324 Walnut Creek, CA 94597 925-699-5008

**ATTACHMENT THREE  
TO SCHEDULE OC SCOPE OF SERVICES  
CONSULTANT'S KEY STAFF AND SUBCONSULTANTS**

2. The following Subconsultants are authorized to perform services on the Agreement:

<b>Firm</b>	<b>Project Role</b>	<b>Contact Information</b>
<b>Bennett Trenchless Engineers, LLP</b>	Trenchless Design Services	Kate Wallin, Senior Scientist 950 Glenn Drive, Suite 115, Folsom, CA 95630; 916-294-0095; <a href="mailto:Kate.Wallin@BennettTrenchless.com">Kate.Wallin@BennettTrenchless.com</a>
<b>CHS Consulting, Inc. dba CHS Consulting Group</b>	Traffic Engineering	Chi-Hsin Shao, President 220 Montgomery Street, Suite 346, San Francisco, CA 94104; 415-392-9688; <a href="mailto:CShao@chsconsulting.net">CShao@chsconsulting.net</a>
<b>Degenkolb Engineers</b>	Structural/Seismic Engineering	Roger Parra, Principal 235 Montgomery Street, Suite 500, San Francisco, CA 94104; 415-354-6422; <a href="mailto:rparra@degenkolb.com">rparra@degenkolb.com</a>
<b>Geotechnical Consultants, Inc.</b>	Geotechnical Engineering, Geology, Hydrogeology	G. "Neel" Neelakantan, President 500 Sansome Street, Suite 402, San Francisco, CA 94111; 415-981-9950 (t); 415-981-9951 (f); <a href="mailto:neel@gtcgeotech.com">neel@gtcgeotech.com</a>
<b>EXARO Technologies Corporation</b>	Underground Utility Locating	Jose Dominguez, Operations Manager 1831 Bayshore Highway, Burlingame, CA 94010; 650-777-4324; <a href="mailto:jd@exarotec.com">jd@exarotec.com</a>
<b>Flow Science Incorporated</b>	Surge Protection and Analysis Services	Kristen Bowman Kavanagh, PE 48 S. Chester Ave., Ste. 200, Pasadena, CA 91106; 626-304-1134; <a href="mailto:kbkavanagh@flowscience.com">kbkavanagh@flowscience.com</a>
<b>O'Dell Engineering</b>	Surveying and Landscape Architecture	Dylan Crawford, Principal 1165 Scenic Drive, Suite B, Modesto, CA 95350; 209-571-1765 <a href="mailto:dcrawford@odellengineering.com">dcrawford@odellengineering.com</a>
<b>Saylor Consulting Group</b>	Cost Estimating, Scheduling, Value Engineering	Natalie Saylor, President 71 Stevenson Street, #400, San Francisco, CA 94105; 415-399-9990 <a href="mailto:nsaylor@saylorconsulting.com">nsaylor@saylorconsulting.com</a>

**ATTACHMENT THREE  
TO SCHEDULE OC SCOPE OF SERVICES  
CONSULTANT'S KEY STAFF AND SUBCONSULTANTS**

<b>Firm</b>	<b>Project Role</b>	<b>Contact Information</b>
<b>Safety Compliance Management, Inc.</b>	Occupational Health and Safety Services	Paul Gantt, President 3160 Crow Canyon Place, Suite 115, San Ramon, CA 94583 925-372-2265 <a href="mailto:Pgantt@scm-safety.com">Pgantt@scm-safety.com</a>
<b>Thomas O'Rourke</b>	Seismic Advisor	Thomas O'Rourke, Professor 323 Hollister Hall Cornell University Ithaca, NY 14853 607-255-6470 <a href="mailto:tdo1@cornell.edu">tdo1@cornell.edu</a>
<b>V&amp;A Consulting Engineers</b>	Pipeline Corrosion and Cathodic Protection	Glenn H. Willson, P.E. Western Regional Manager 1000 Broadway, Suite 320 Oakland, CA 94607 510-987-8119 <a href="mailto:gwillson@vaengineering.com">gwillson@vaengineering.com</a>

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**SCHEDULE OC  
SCOPE OF SERVICES**

<b>Ref No.</b>	<b>Description</b>
1	Quality and Environmental Management System (QEMS) Fact-Sheet (2016)
2	Santa Clara Valley Water District Non-Disclosure Agreement (NDA), (Current Version)
3	GIS Product Standards July 2015 version

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